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Social and Legal Control in China: A Comparative Perspective

Xiaoming Chen

Abstract: *This article exposes the reader to a different social and legal control system and a different way of thinking about crime—that of China. Chinese think positively about the nature of humans and their potential, and China's social control system weaves together a unique combination of formal and informal mechanisms with a strong emphasis on the latter. The criminal justice system constitutes a key element of the social control system, but it appears to be more of a last resort. It is hoped that through a comparative analysis, the reader can develop a deeper understanding of different social and legal systems.*

Keywords: *social control; China; restorative justice*

Social and legal control takes place in all societies, because in every society, a normative order must be accompanied by institutionalized and noninstitutionalized structures for maintaining this normative order. However, Chinese society exercises a cultural option when it develops a specific way of looking at crime and a characteristic mechanism for controlling it. Because of its unique cultures and traditions, social and legal control in Chinese society generally reflects Chinese cultural values and the ongoing changing political situations. As one of the world's oldest civilizations, China is imbued with a legacy of cultural prescriptions and proscriptions that have produced a strong, normative system.

Chinese society and Western societies may represent two different extremes with respect to the nature of social and legal control. Although each social system establishes its own social norms for governing behavior and its own limits of tolerance for violations of those norms, there undoubtedly exist some cross-cultural commonalities (Wilson, 1977, p. 12). It is hoped that a deeper understanding of different social and legal systems can be developed through a comparative analysis. At the same time, the reader may find something that might be worth trying in China or in Western countries. Limitations of space and knowledge require that the subject be restricted only to those aspects of social and legal control that the author believes to be particularly important including the nature of humans, the model of social and legal control, the functions of community, police early intervention, and the system of correction. Additionally, given the cultural disparity between the Western and Chinese ways of thinking, theoretical concepts have to be contextualized and explored differently in each culture. Therefore, many ideas may have to be reconceptualized in the process of my analysis.

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The term *social and legal control* is used so frequently today that it is often assumed that everyone means the same thing when using it. Yet the definition of social and legal control differs widely in meanings and contents. "Social control (both as a concept and a notion) is currently interpreted in different ways in different academic disciplines, and is utilized for a variety of purposes" (Wardak, 2000, p. 15). Therefore, it is essential to pin down the term *social and legal control* as the term is used in Chinese parlance. As in other countries, there are quite big differences within criminological literature in China. Generally speaking, however, in China, social and legal control is considered a generic term for responding to nonconformity including both the formal and informal ways society has developed to help ensure conformity to social norms. The term *informal*, as it is used here, has a different meaning from that common in the West. From a strict point of view, it should be considered to be a specific form between formal and informal, which may be more properly called quasi-formal. The theory and practice of Chinese social control indicate that it is not a completely informal system; rather, it is formally invested in less formal structures—in mass groups more than in traditional social institutions. For example, some informal institutions such as neighbourhood committees do not form a part of the formal criminal justice system, yet they are established based on certain legal regulations and often are trained by local justice organs or police. In such a way, the Chinese social control system appears to reflect Chinese cultural characteristics. The term *informal* is used to highlight their reliance on volunteers and mass support.

THE NATURE OF HUMANS

China's traditional value system is a complex amalgam of ideas that evolved over centuries and was shaped by Confucianism, Legalism, Daoism, Buddhism, and other influences; however, Confucianism has remained the dominant Chinese philosophy that has influenced Chinese society and provided the basis for the social order since the Han dynasty (206 B.C. to 221 A.D.). The Confucian school adhered to the premise that humans are basically good by nature and that their good qualities can be brought out through education and eventually lead to virtue, because people are willing to perfect themselves. Confucius refused any notion that individuals are driven by an uncontrollable force, which would suggest that crime was endemic in human society (Woodward, 1984). Nor did Confucian philosophy accept the concepts of original sin and the fallen state of humanity.

Positive thinking about human nature results in the Chinese having strong beliefs that criminal tendencies are not innate and can be cured. The Chinese system of social control is founded on this view. Unlike Western countries where the individual has been the central focus, in Chinese society, the internal personality dynamics of the individual are not emphasized, and the external environment is regarded as having the greatest responsibility for offence. In this view, the offender is not looked upon as a deficient person but as a victim of certain negative

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influences in the environment. The proper societal response to such deviations is education, persuasion, and salvation (the official policy). Therefore, education has been the key ingredient for maintaining order in China. Contrarily, punishment did not necessarily make people learn or induce them to be good. The primary aim of education was to cultivate and correct mental attitudes toward social norms. In other words, the offender should be reformed and reintegrated into society as a useful member of that society. However, the Chinese approach may have a drawback, because it assumes a rather rigid definition of what is compatible with human nature.

Contrary to the concept of human nature of Confucius, Western people tend to have a more pessimistic view of human nature, which has been influenced by the idea of original sin, based on certain strands of the Judeo-Christian tradition. The emphasis on the principle of utility and hedonism in 19th- and 20th-century Western social thought has been consistent with this vision of human nature as intrinsically self-centered, demanding, and controllable only by commands and prohibitions, punishments, and rewards. Therefore, in the West, human beings are more likely to be viewed as basically selfish and motivated primarily by self-interest, although even the worst of them may have moments of spontaneous generosity. According to a utilitarian view of human nature, people avoid vice in favor of virtue only because they believe that although vice brings pleasure immediately, it brings pain eventually (Mead, 1942, p. 38). Therefore, Westerners accept as a given that there will always be aberrant behavior; the issue is how it can best be controlled and what specialized agency should deal with it. Based on this belief, Western countries devise criminal justice systems and rely on them for controlling crime. This situation may discourage the public's involvement in crime prevention and the correction of offenders.

MODELS OF SOCIAL AND LEGAL CONTROL

In China, the belief that society is both a cause and a victim of crime confers on society the right and duty to be involved in such matters. Moreover, intrusion into other people's lives is taken for granted and viewed positively. It is perceived as a sign of caring rather than meddling. Many Chinese people are trained in the concept of social duties and obligations rather than self-interest or personal aggrandizement. In addition, the deep-seated interdependency and communitarianism in Chinese society and culture are conducive to public support and enthusiasm for dealing with any problems affecting the community. Dorothy Bracey (1984) made the following comments:

> When the Chinese say that crime is a social problem, they are not simply saying that an individual is a product of the social environment and therefore is not totally responsible for his behavior. They are saying that the social group—not an abstract "society" but a village, neighborhood or work group—is both responsible for and a

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> victim of crime. The conclusion they reach is that the social group has the right and duty to intervene in behavior that might lead to crime. (p. 10)

Therefore, Chinese crime control does not just work from the top down through the formal criminal justice system but, and above all, from the bottom up. Chinese people do not mind only their own business, they prefer to handle minor criminal and civil dispute problems in their neighborhood rather than hand them over to professionals. As a result, almost all members of the society seem to have become active controllers of crime instead of silent observers. They intervene at the first sign of possible trouble. The Chinese experience suggests that many disputes can be handled informally, probably with greater satisfaction on the part of the involved parties. The smaller the deviation and the earlier it is treated, the more confident one can be of success. It follows that the most efficacious treatment results from an early intervention when the offender is young and the offences are trivial. The result is an extensive, proactive social control apparatus.

In the social control mechanisms of contemporary China, mass participation is still regarded as a key tenet. The social order in China is supposed to be maintained by "the capacity of society's members to understand one another and to act in concert in achieving common goals through common rules of behavior" (Johnson, 1983, pp. 152-153). Compared with the West, Chinese society has developed a very different model of social control. As Xin Ren (1997), an overseas Chinese scholar, stated,

> The most important distinction, perhaps, is the efforts of the Chinese state to control both the behavior and the minds of the people. Social conformity in the Chinese vocabulary is not limited to behavioral conformity with the rule of law but always moralistically identifies with the officially endorsed beliefs of social standards and behavioral norms. Perhaps it goes against the free-will notion of the classical theory of criminology or perhaps it is socialist totalitarianism. Whatever it is, the Chinese tradition of so-called "greatest unity" has always attempted to achieve ultimate uniformity of both mind and act within Chinese society. (p. 6)

Chinese people have a general idea that the anti-social thought occurs before the anti-social behavior, and minor norm violations will develop into full-scale crimes if they are left unchecked. Therefore, when an individual's thoughts or behavior have been detected as deviating from the social norm, initiating thought or behavior reeducation by others will be necessary. In terms of crime control, an approach based on this philosophy would not be reactive but proactive in that it would not wait for criminal behavior to occur but look for incorrect thoughts. It is thus clear that Chinese society, compared with the West, has developed a characteristic model of social control. The heavy emphasis is clearly on informal rather than formal methods of social control.

By contrast, in most Western societies, cultural and legal concepts give less encouragement to the use of these extralegal mechanisms, and a greater scope of personal deviance is tolerated. Informal, proactive social control is often per-

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ceived as unacceptable interference or meddling in other people's affairs. Therefore, on one hand, people tend to form a litigious attitude whereby they view all conflicts in legal terms and rely on courts to solve them, and on the other hand, the criminal justice and other control mechanisms seem to be quite distant from the majority of people in their everyday lives. They appear as large, bureaucratic organizations located in office complexes far from residential neighborhoods. They keep their distance and are not forthcoming with help at the early stages of social deviancy. It is only when a serious deviant behavior has actually occurred that they get involved. This situation weakens the preventive effect of social control, for the experience from different countries suggests that for crime control to be effective, local citizen involvement in norm formation and enforcement and/or involvement in the formulation of the law is crucial (Adler, 1983).

However, there are also some apparent problems and shortcomings in the philosophy of the Chinese model. Both socialist and traditional theories emphasize order over freedom, duties over rights, and group interests over individual ones. Consequently, whenever the social order is perceived by the authorities as being threatened, legal niceties may be set aside. The existence of some loopholes in criminal law also gives the judicial system too much arbitrary power in applying criminal sanctions. The continuing active role of the Communist Party's political and legal committees limits the degree of independence allowed to the judiciary. The severity of punishment is strongly affected by the political situation at the given time.

Moreover, whether a deviance or dispute is relatively trivial, the public's early, informal involvement may not only suppress the offender's individual expression and lead to a loss of privacy but may also bring about a certain degree of damaging stigma. A shame-induced, negative self-image must have a detrimental effect on some offenders. This may persist even though early intervention does not attempt to demean and humiliate offenders but, rather, to emphasize reintegration into the community following treatment at an institution. Once stigmatized with a deviant label, however, offenders usually have fewer opportunities to enter school, find jobs, and even establish a family. Thus, they may experience a sense of injustice at the way they are victimized by agents of social control. This situation may indeed influence some offenders to have more negative attitudes toward society and regard themselves as more delinquent. Under these circumstances, deviance becomes, and is rationalized as, a defensible lifestyle, which is difficult to change. Additionally, appeals to family, neighborhood committees, and other informal social groups in preventing and controlling crime may raise political questions about both the extent of the state's responsibility for the citizens' safety and about its effectiveness and legitimacy in the area of crime control. The Chinese model gives a greater responsibility to individuals and collectivities and a lesser responsibility to the state in controlling crime. Therefore, this situation appears to carry with it its own tensions and contradictions. Moreover, the semiofficial role allotted to the family and other intermediary groups legitimates intense surveillance in society and promotes subordination to the dominant state ideology.

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FUNCTIONS OF COMMUNITY

Based on the tradition of management of social conflict through a combination of popular mediation and discipline sanctions applied through an administrative rather than an adjudicative process, tight control over community organization and neighborhood life has been a characteristic of the Chinese social control system.

Community in the Western world "is both a signifier and referent around which complex and contradictory effects, meanings and definitional struggles coalesce" (Crawford, 1995, p. 98), but in China, it is principally defined in geographical terms. It is usually defined as an area in which a bounded territory is named and identified by residents. The number of households and people in a community fluctuates depending on different factors within a community such as residential areas, businesses, factories, markets, hotels, and so on.

The strong emphasis on a communal existence with powerful neighborhood committees produces throughout the country a social control net that is much different from that present in Western countries. In China, one of the most apparent differences is that neighborhood committees are both proactive and reactive in identifying potentially troublesome social situations, preventing crime, resolving conflicts, and dealing with offensive behavior. In Western literature, these low-level neighborhood committees tend to be viewed as informal forms of control, but in reality, they are constituted in China as quite formal institutions of social control. Although they are often referred to as mass organizations, "they are not volunteer associations in the U.S. sense; they are government organized and controlled entities" (Troyer, 1989, p. 27). Therefore, they may be regarded as the first level of the governmental structure or an arm of a higher level of control. Western sociological and criminological literature on crime and delinquency seems to customarily focus on specialized, formal agencies such as police and courts. Undoubtedly, formal institutions are very important, however, informal institutions should not be overlooked. Otherwise, biased results may be produced. Such would certainly be the case for Chinese society today. Social control in Chinese society is so strong that dropping out, becoming invisible, or carving out an area of one's life and declaring it out of bounds to anyone but oneself or one's family seems to be impossible (Simon, 1985, pp. 99-100). The extensive participation of the public throughout the entire process of controlling deviancy obviously minimizes the function of formal legal control within Chinese society. According to Black's (1976) behavioral theory of law, "law is stronger where other social control is weaker" (p. 107). Conversely, law is weaker where other forms of social control are stronger. Black's assertion that law varies inversely with other forms of social control is certainly applicable in Chinese society.

This approach is considered beneficial, because few human and material resources need to be invested in the formal criminal system. Perhaps because of the sheer size of China and its population, this is the only practical approach to

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controlling crime. In China, a primary reliance on the formal criminal justice system in maintaining the social order would not only be socially impractical but also financially unviable. Although the economic reform that started in 1978 did weaken community bonds, the informal organizations will certainly continue to exist and constitute the basis of the social control system.

However, this system may provide insufficient protection for an individual against unfair group actions as well as inadequate means of restraining improper official actions. The lack of perfected formal procedural laws often leads to confusion about rights and obligations and means that there is no sufficient protection of individual rights. Not only may deliberate abuse of power by law enforcement personnel go undetected but also mob lynching can easily take place. Under these circumstances, how is one to be protected against the tyranny of one's group? How can abuse of power by legal officials be restrained? This is especially dangerous when compounded with the awesome discretionary power that law enforcement personnel have. Moreover, this situation also engenders the lack of trained personnel and institutionalized means of carrying out legal work thereby restricting the capacity of the legal system to handle problems more complex than the management of interpersonal affairs. It should be noted, however, that in the past 20 years, there has been a vast improvement in the protection of the individual against state excesses and arbitrary actions in the Chinese criminal justice system including the promulgation of criminal laws and the formal commitment to procedural protections and citizens' rights all tending to provide accused persons with more opportunities to defend themselves in criminal proceedings.

POLICE EARLY INTERVENTION

Central to the contemporary Chinese legal philosophy is the concept that crime prevention is the most effective form of controlling social behavior. As part of this philosophy, police early intervention is always emphasized. The dependence on mass support and cooperation, combined with the Chinese belief that it is right and necessary to intervene early before minor offences grow into serious crimes, may constitute a unique Chinese policing style. This policing style offers the police opportunities

> to build durable relationships with the people of the area, provide needed services to the ill and the elderly, and have the greatest opportunity to display the therapeutic, conciliatory, and compensatory styles that lend to garner more goodwill than does the penal approach. (Bracey, 1989, p. 139)

Although the police participate directly in the early intervention, they are not concerned with law and punishment as such but, rather, with helping offenders become law-abiding and useful citizens. Therefore, the characteristic Chinese mode of police response is largely nonpenal.

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For many people in countries with a heritage of individual rights and civil liberties, the Chinese police may play too many roles compared to the police in their own countries. Moreover, some of the roles may be perceived as not being police business. Indeed, in Western countries, police intervention is mostly limited to situations where they believe that an offence has been committed and an arrest should be made. Otherwise, the intervention may be considered inappropriate. In China, because of the belief in early intervention, the police are expected to respond to minor offences in the early stage and actively participate in such intervention to act in concert with the relevant mass groups. The police not only provide community surveillance but also conduct many education programs at the neighborhood level such as distributing legal materials and educating the residents in the neighborhood about laws and rights, holding community meetings to discuss justice and social problems, preparing messages involving legal and crime prevention matters, persuading residents of the necessity of rules for public security and individual protection, and visiting offenders and their families to determine what the problem is, seek solutions outside of the criminal justice system, and help them solve such problems as employment. Direct involvement by the police is also intended as a reminder that an arrest can still be affected if the offender strays further from the beaten path. The aim is to put a greater pressure on offenders. In reality, the police prefer not to arrest offenders, and there is no strong expectation that they will make an arrest, either. The mere presence of the police is considered to be able to strengthen the effects of early intervention and has, in fact, become an integral part of it.

Some of these functions may sound similar to those implied by the community policing model in the West, but in the Chinese context, they involve more direct ideological work and a greater emphasis on penetrating the daily life of the communities policed. A distinct characteristic of early intervention is that it is proactive and continuous. This built-in vigilance not only makes early detection of deviation and early intervention and treatment possible, it also makes for an environment that deters individuals from making illegitimate or illegal material gains, because they would not have the opportunity to enjoy them (Li, 1973). The extent and the diversity of activity performed by the Chinese police indicates that the police not only are a prime force in enforcing the criminal law but also play an important role in the elaborate system of informal social control.

SYSTEM OF CORRECTION

The purpose of the unique Chinese system of reforming criminal offenders, based on an unrelenting optimism about human nature, is to reform inmates mainly through labor and education and make them become new people rather than simply to apply punishment to inmates and to make them pay for their crimes. The concept of rehabilitation is still embedded deeply in the present Chinese theory and practice of reforming offenders, although it seems to be declining

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in the Western countries, especially in the United States. Dramatized throughout the Chinese correctional program is the paternalistic dictum that the individual can and should be reasoned with and guided toward positive ends and, therefore, that correctional officials must be to inmates as parents are to their children, as doctors are to patients, and as teachers are to students.

Unlike Western countries where the individual has been the central focus, in Chinese society, the internal personality dynamics of the individual are not emphasized, and the external environment is regarded to have the greatest responsibility for crime. Thus, rehabilitation has been conceptualized within a Marxist context that locates the causes of deviant behavior in the society rather than in the individual. In this view, the offender is not looked upon as a deficient person but as a victim of certain negative influences in the environment. Therefore, the offender should be reformed and reintegrated into society as a useful member of that society.

The use of both formal and informal resources for the correction of offenders is integrated within the system of macro-control to a degree far greater than in Western societies. According to the policy of the state, every correctional institution is established just like a factory, a farm, or a school. A reformed offender means a changed person—a new person. Every institution should help and educate offenders with tangible means and in ways that relate to the environment to which offenders will have to return upon their release. In contrast, the West appears to be disillusioned with its attempts at the rehabilitation of offenders and is in the process of redefining the purpose of sentencing. Based on the assumption that criminal activities result from a deliberate choice, the former stress on social rehabilitation of offenders seems to now be replaced by a renewed emphasis on punishment, deterrence, and incapacitation. The recent interests in community-based sentencing and reintegrative shaming notwithstanding, behavioral compliance rather than repentance and moral reeducation are the main goals of the criminal justice system. Although this approach does not interfere with the individual's value system, it is, by the same token, unable to produce any meaningful or lasting change in his or her behavioral and attitude toward others. The lesson for the West may therefore lie in the appreciation of the role of the collective and the importance of the sense of belonging. It must, however, be kept in mind that if carried too far, the belief in the total malleability of human beings may dangerously undermine their autonomy, and an overzealous stress on conformity may clash with Western values.

Perhaps China is not radically different from Western and other societies in terms of problems encountered and the measures employed to handle common crime. However, more than any other country in the world, China puts a special emphasis on the participation of a wide range of people in combating the problem. To the Chinese mind, because offenders come from society and will eventually go back to the society, the participation of the whole society in reforming offenders will greatly accelerate the process of socialization of offenders. Therefore, an unusually broad range of citizens and groups are drawn into the process. Different

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levels of government and other organizations, such as labor unions, the Youth League, women's associations, schools, and communities all assist correctional institutions with reforming offenders.

At the lowest levels, it includes parents and other family members who have the basic responsibility for social order. In contemporary Chinese society, although the family system has undergone significant transformation including changes in its composition, type, and its role in the life of the individual, family ties still remain relatively strong. The family itself has survived as the key site of education and exercises great mediating influence in a person's relations with the state and the society in general. Furthermore, because Chinese society has developed no other forms of social control that would operate effectively and stably in the absence of family control, the family is still the principal institutional locus for a highly effective form of social control, which Braithwaite (1989), a contemporary Western criminologist, has labeled reintegrative shaming. Reintegrative shaming represents a societal response to deviance that affirms wrongdoing while encouraging the reacceptance of deviants back into society. According to Braithwaite, families are usually the most effective agents of social control precisely because they are oriented toward reintegrative forms of shaming. Societies in which the family is the dominant social institution can therefore be expected to exhibit low overall rates of crime.

In addition, there is a universal assumption in China that parents' behavior and methods of education can be contributing to their children's deviance, because parents are their child's first teachers. Therefore, the important role in reforming offenders played by parents is heavily emphasized. As Dutton (1992) stated,

> While the family of the inmate was, in the classical period, treated with suspicion and, at times, outright hostility, such relations have been reordered in the contemporary period. The family is now interpolated into the reform and becomes an instrument of government. This transformation in the role of the family within penal discourse would not have been possible had it not been for the other great changes which had transformed the social function of the family. (p. 260)

Thus, the family has, in fact, become an ally of the state in the penal reform process rather than the co-object of the state's punishment in modern China. Although the positive dimensions of a strong family cannot be denied, the new approach is in some ways a double-edged sword in that it can place extreme pressure on both the offender and his or her family. Parents of inmates are expected to combine several roles: educators of offenders, assistants to correctional institutions, and parents of offenders. Under the watchful eyes of those with whom the offenders have the most frequent daily contact, they are encouraged to reform and develop a sense of social responsibility, which will lead to their reintegration into society.

The great pressure that various organizations exert on the individual to conform to group norms must certainly have an impact on offenders. Also, their

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active involvement symbolizes reacceptance of offenders while also offering a practical basis for reintegrating offenders. The purpose of all these efforts is to enable inmates to realize that society has not forgotten and deserted them and to strengthen their confidence in returning to society. Mass involvement in reforming offenders is one of the most striking aspects of the Chinese justice system that differentiates it from Western models.

CONCLUSION

The Chinese social control system has endured for more than 2,000 years. Despite the passage of time and the progress of science and technology, ideas and practices associated with the Confucian tradition generally continue to influence Chinese thinking and behavior. This is not to say that modern China is just an extension of the old, traditional society. Rather, there are some cultural continuities.

Obviously, the historical development of social and legal control in China has taken a very different path from that of the West and has produced some different results. For Chinese society, social order was maintained primarily based on moral socialization, not on the deterrence of penal law. For Western society, because of the prevalence of law, the enforcement of moral rules seems to both cover less ground and be less effective. Stanley Lubman (1983, pp. 182-183) summarized four main characteristics of the system of traditional Chinese social and legal control: (a) the dominance of informal means of settling disputes and punishing minor offences, (b) the lack of functional separation between law and bureaucracy, (c) popular fear and avoidance of the legal system, and (d) the subordination of law to a dominant state philosophy.

Today's China is different from China of the past. Chinese approaches to social and legal control have been undergoing great changes. The Chinese have realized the limitations of control by the masses and informal procedures; therefore, the trend in the Chinese social and legal control model is toward being more formal and professional to provide equality and to protect individual rights. China has developed an extensive array of coded laws and made a massive effort to strengthen the criminal justice system. Law is now recognized as a principal tool for the achievement of socialist justice, social stability, and economic development. Nevertheless, this trend cannot be viewed as a phenomenon related to the transition to Western practices. Rather, there are still many fundamental differences.

First, although the West does not deny the existence and importance of groups, its primary concern is with the individual—whether in terms of legal status, religious salvation, or personal fulfillment. Consequently, the Western system stresses individuality, privacy, and diversity. Chinese society places less importance on the individual and greater emphasis on how he or she functions within the context of a larger group. Thus, although China is engaged in the construction of

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legalism, it is still emphasizing mass participation and a parallel development of formal and informal social control.

Second, contemporary Chinese laws apparently reflect a combination of traditional and Western influences. They reflect the Chinese cultural tradition and a vast experience accumulated by government agencies and nongovernment organizations in controlling crime. The Confucian and Legalist heritage, Western influence, and the ideology of the Chinese Communist Party all have had a great impact on the current criminal justice system of China. Despite their differences with respect to social and legal control, all these philosophies have permeated the current practice of social and legal control. Perhaps the uniqueness of the system of the Chinese social and legal control lies in this centralized synthesis of very eclectic elements and influences.

Third, the ongoing changes merely represent the adjustment of an old model to a new social environment. This adjustment is characterized by an attempt at a parallel development of social and legal control systems, which is a part of what the Chinese government called "socialism with Chinese characteristics," intended to meet the new situations of a market economy. Therefore, these changes should be seen more as responses to changing political and economic situations than to shifts in attitudes among the general public.

Finally, China's emphasis on the law as a means of solving social problems such as crime is still closely connected with specific political situations. Therefore, the punishment of offenders in China can be recognized as a political tactic. This seems to be consistent with Foucault's analytic understanding of punishments. According to Foucault (1978, pp. 23-24), the study of punitive mechanisms should not be concentrated on their *repressive* effects alone or on their *punishment* aspects alone. Rather, these mechanisms should be situated in a whole series of their possible *positive* functions, even if these seem marginal at first sight. Thus, punishment is to be regarded as a complex social function. The author can assert that the goals of punishment of offenders in China are not limited simply to reducing crime. Indeed, punishment can be seen as a political tactic that serves the following positive, complex functions: (a) to demonstrate the Chinese government's superior power through open trials and other visual effects, (b) to demonstrate that the social order advocated by the Chinese government is not to be disrupted and that it has the ability to maintain peaceful social order, (c) to announce and demonstrate that the Chinese government can control the direction of political and economic development and can secure the success of and noninterference with its modernization policies, (d) to deflect attention from various critiques of the economic and social policies pursued and to satisfy the widespread desire for speedy restoration of social order through clamping down on crime, (e) to demonstrate that the Chinese government is not only the instructor of people but also their guardian through mobilizing the masses to be involved in the early intervention, and (f) to demonstrate that the Chinese government, through its emphasis on the functions of punishment, can solve such social problems as crime.

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In conclusion, the parallel development of formal and informal mechanisms of social control may be the best way to approach crime. Without law, the basic rights of citizens cannot be protected effectively. The formal laws, after all, embody important principles and provide the framework and safeguards for the exercise of state authority. However, law has its substantial limitations. It provides an excuse for not involving the community in maintaining order by relegating this function to the police and judicial organs. Without the active involvement of other social institutions in addressing crime problems, the law may not gain broad enough community support to guarantee conformity and may be perceived as arbitrary and removed from the society. Moreover, the law has become too costly and complex to rely on as the primary method of maintaining social order and resolving disputes.

What is intriguing is that the recent trends of social and legal control in the Chinese and Western societies seem to converge. On one hand, to deal with its recent epidemic of crime, China is emphasizing the formal legal methods in dealing with offenders. On the other hand, Western countries conduct diversion programs that involve the gradual removal of criminal cases from the general jurisdiction of the courts and entrust them to informal bodies as a better approach to reducing the crime rate. Perhaps only time and further experience will tell whether these hybrid systems can deliver what they promise.

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